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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/647,989	08/26/2003	Joseph Pressutti	2003-010	2495

7590 12/06/2005

Law Office of Terry L. Miller
24832 Via San Fernando
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EXAMINER

KATCHEVES, BASIL S

ART UNIT	PAPER NUMBER
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3635

DATE MAILED: 12/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/647,989

Applicant(s)

PRESSUTTI ET AL.

Examiner

Basil Katcheves

Art Unit

3635

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 July 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 and 14-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 9-11, 14-17 is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Applicant has cancelled claims 12 and 13 in the paper dated 7/18/05. Pending claims 1-11 and 14-17 are examined below.

Claim Rejections - 35 USC § 102

Claims 1, 3-5 and 8 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 3,913,294 to Freiborg.

Regarding claims 1 Freiborg discloses a folded ridge cover (fig. 1: 20) which is double folded upon itself transversely (fig. 4) to form a double Z shape bend (4: near 20b), including a T shaped slit (fig. 5: 36 & 38) and transverse grooves (fig. 5: 40, 42, 44 & 46). Also, these grooves alternate, one after the other. Regarding applicant's limitation of impressed grooves, applicant should note that even though product-by-process claims are limited by and defined by the process, determination of patentability is based on the product itself. The patentability of a product does not depend on its method of production. If the product in the product-by-process claim is the same as or obvious from a product of the prior art, the claim is unpatentable even though the prior product was made by a different process.

Regarding claim 3, Freiborg discloses a rectangular end (fig. 5: 34) joined with a tapered opposite portion (portion shown to the left of 48).

Regarding claim 4, Freiborg discloses the transverse grooves (fig. 5: 40) as transecting the T slit (fig. 5: 36, 38).

Regarding claim 5, Freiborg discloses the tapered portion as being trapezoidal.

Regarding claim 8, Freiborg discloses a ridge cover having the limitations as disclosed in the rejection of claim 1, a slit T (fig. 5: 36, 38), transverse, alternating one after the next, spaced grooves (fig. 5: 40, 42, 44 & 46) intersecting the T, a rectangular portion (fig. 5: 34), and a tapered portion (fig. 5: left of 48).

Claim Rejections - 35 USC § 103

Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 3,913,294 to Freiborg in view of U.S. Patent No. 5,365,711 to Pressutti et al.

Regarding claim 2, Freiborg does not disclose the use of inorganic fiber material with an asphaltic matrix and additive to improve flexibility. Pressutti discloses the use of inorganic fibrous materials having an asphaltic impregnation to aid in the flexibility of shingles (column 2, lines 29-38). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Freiborg by using the flexible inorganic material as disclosed by Pressutti, in order to aid in the bending of the ridge cover.

Claims 6 and 7, are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 3,913,294 to Freiborg in view of U.S. Patent No. 5,467,568 to Sieling.

Regarding claim 6, Freiborg does not disclose the rectangular end of the cover as being square. Sieling discloses a folding hip cover having a square end (fig. 2). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Freiborg by using a square end, as disclosed by Sieling, in order to speed production by having a uniform throughout the length of the shingle.

Regarding claim 7, Freiborg discloses opposite side steps (fig. 5: 54 and opposite side 54) which are adjacent to the bottom of the T slit.

Allowable Subject Matter

Claims 9-11 and 14-17 are allowed.

Response to Arguments

Applicant's arguments filed 7/18/05 have been fully considered but are moot under the new rejection necessitated by the applicant's amendment.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Basil Katcheves whose telephone number is (571) 272-6846. The examiner can normally be reached on Monday-Friday from 7:30 am to 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl Friedman, can be reached at (571) 272-6842.

BK

11/29/05



Carl D. Friedman
Supervisory Patent Examiner
Group 3600